

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1236

FINAL READING

Introduced by Wehrbein, 2

Read first time January 23, 2002

Committee: Agriculture

A BILL

1 FOR AN ACT relating to the State Board of Agriculture; to amend
2 sections 2-101, 2-220 to 2-220.02, 2-220.04, 2-1204,
3 2-1208.01, 51-601, 51-603, 51-604, 77-2704.16,
4 81-1108.30, and 83-136, Reissue Revised Statutes of
5 Nebraska, section 2-219, Revised Statutes Supplement,
6 2000, and section 53-124.14, Revised Statutes Supplement,
7 2001; to rename the board; to provide intent; to change
8 provisions relating to membership; to provide and
9 eliminate powers and duties; to create a foundation; to
10 change and eliminate provisions relating to officers,
11 funds, and bonds; to harmonize provisions; to provide an
12 operative date; to repeal the original sections; and to
13 outright repeal sections 2-102, 2-115, 2-116, 2-118, and
14 2-125 to 2-128, Reissue Revised Statutes of Nebraska, and
15 section 2-117, Revised Statutes Supplement, 2001.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that the Nebraska State
2 Fair has been held annually for the exhibition and dissemination of
3 agricultural, horticultural, industrial, mechanical, and other
4 products and innovations and for exhibitions in the arts, skilled
5 crafts, and sciences and is a beneficial cultural and educational
6 event for the state and its citizens. The Legislature declares it
7 to be in the public interest that management of the Nebraska State
8 Fair and the Nebraska State Fairgrounds be based upon a dynamic
9 public-private partnership that includes the active participation
10 of the state and local governments, the private sector, and the
11 citizens of Nebraska. In order to achieve this goal, the
12 Legislature finds that the Nebraska State Fair Board should
13 endeavor to:

14 (1) Place a priority on the development of private
15 funding sources, including corporate donations and sponsorships;

16 (2) Work with municipal officials to enhance the board's
17 participation in local planning efforts and to create a partnership
18 with local economic development and tourism officials;

19 (3) Maintain a policy of openness and accountability that
20 allows for citizen participation in the operation of the Nebraska
21 State Fair and the Nebraska State Fairgrounds; and

22 (4) Regularly provide the Governor, the Legislature, and
23 appropriate state agencies with information, including, but not
24 limited to, the development of private funding sources, the use of
25 state appropriations, the status of the state fairground facility
26 maintenance and improvements, the fiscal management of the state
27 fair, and the activities and goals established for the state fair
28 and the state fairgrounds.

1 Sec. 2. Section 2-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-101. (1) There shall be held prior to April 1 of each
4 year, a meeting of the The Nebraska State Fair Board, formerly
5 known as the State Board of Agriculture, shall hold an annual
6 meeting together with the president of each county society, or
7 delegate therefrom duly authorized, who shall for the time being be
8 ex officio members of the State Board of Agriculture, for the
9 purpose of deliberating and consulting as to the wants, prospects,
10 and conditions of the agricultural, horticultural, industrial,
11 mechanical, and other interests throughout the state, as well as
12 those interests in the encouragement and perpetuation of the arts,
13 skilled crafts, and sciences.

14 (2) The Nebraska State Fair Board may provide in its
15 constitution and bylaws for the qualification and participation of
16 delegates at the annual meeting from such associations incorporated
17 under the laws of the state for purposes of promoting and
18 furthering the interests of participants in agricultural,
19 horticultural, industrial, mechanical, or other pursuits or for the
20 encouragement and perpetuation of the arts, skilled crafts, and
21 sciences, and from such associations as provide for the training,
22 encouragement, and competition of the youth of Nebraska in such
23 endeavors. The annual Such meeting shall be held in every
24 odd-numbered year at the capital of the state, and in every
25 even-numbered year at such location as the board may determine
26 determines. At such annual meeting the several reports from the
27 subordinate societies shall be delivered to the president of the
28 board. The president and delegates shall at this meeting elect

1 ~~suitable persons to fill all vacancies in the board. The president~~
2 The chairperson of the board shall also have the power to call
3 meetings of the board whenever he or she may deem it expedient.

4 (3) The state fair shall be held at or near the city of
5 Lincoln, in Lancaster County, under the direction and supervision
6 of the Nebraska State Fair Board, ~~of Agriculture,~~ upon the site and
7 tract of land, selected and now owned by the state for that purpose
8 and known as the ~~state fairgrounds~~ Nebraska State Fairgrounds. The
9 board may, at its discretion, hold or dispense with the holding of
10 the fair, in any year.

11 Sec. 3. (1) No later than May 1, 2003, the Nebraska
12 State Fair Board shall be a board consisting of the following
13 members:

14 (a) Seven members nominated and selected by district as
15 provided in the constitution and bylaws of the board; and

16 (b) Four members appointed by the Governor and confirmed
17 by the Legislature, two selected to represent the business
18 community of the city of Lincoln, one selected to represent the
19 business community of Omaha, and one selected to represent the
20 business community of the state at large.

21 (2) The term of office for members of the board shall be
22 for three years, except that the terms of the initial members shall
23 be as follows:

24 (a) The terms of office for the seven members selected
25 pursuant to subdivision (1)(a) of this section shall be for one,
26 two, or three years as determined by lot, with two members
27 appointed to a term of one year, two members appointed to a term of
28 two years, and three members appointed to a term of three years;

1 and

2 (b) The terms of office for the members appointed
3 pursuant to subdivision (1) (b) of this section shall be for one,
4 two, or three years, as designated by the Governor, with two
5 members appointed to a term of one year, one member appointed to a
6 term of two years, and one member appointed to a term of three
7 years.

8 (3) No person may serve more than three consecutive terms
9 as a member of the board, except that members of the State Board of
10 Agriculture having served or serving in an executive capacity may
11 only serve on the Nebraska State Fair Board for one term of three
12 years. No member of the Legislature may serve on the board.

13 (4) The board shall annually elect from its membership a
14 chairperson, a vice-chairperson, a secretary, and such other
15 officers as the board deems necessary. The officers shall be
16 elected at the annual meeting of the board, or any other meeting of
17 the board called for such purpose, and shall hold their offices for
18 one year and until their successors are elected and qualified.

19 (5) The chairperson of the Nebraska Arts Council and the
20 chancellor of the University of Nebraska-Lincoln, or their
21 designees, shall be ex officio members of the Nebraska State Fair
22 Board.

23 Sec. 4. (1) The State of Nebraska may provide for the
24 occupation, use, and management of the site and tract of land in
25 Lancaster County, selected and now owned by the State of Nebraska
26 and known as the Nebraska State Fairgrounds, by the Nebraska State
27 Fair Board for purposes of (a) exhibitions of agricultural,
28 horticultural, industrial, mechanical, or other products and

1 resources of the state, including proper exhibits and expositions
2 of the arts, skilled crafts, and sciences, (b) the conduct of live
3 and simulcast horseracing, and (c) other uses and purposes
4 determined by the board, including the leasing of parts of the
5 state fairgrounds. Such occupation, use, and management shall be
6 pursuant to a property management agreement entered into between
7 the board and the Department of Administrative Services on behalf
8 of the State of Nebraska. The board shall assume the role and
9 responsibilities of the State Board of Agriculture under any such
10 property management agreement in effect on the operative date of
11 this act, and such agreement may be amended from time to time as
12 necessary to carry out the purposes of section 2-101 and sections 1
13 and 3 to 6 of this act and as amended shall continue in force and
14 effect.

15 (2) Any property management agreement between the State
16 of Nebraska and the Nebraska State Fair Board pursuant to this
17 section shall provide for the reporting of information by the board
18 as deemed appropriate by the Department of Administrative Services
19 for ascertaining the development of private funding sources, the
20 use of state appropriations, the status of the Nebraska State
21 Fairgrounds facility maintenance and improvements, the fiscal
22 status of the Nebraska State Fair, and the activities and goals
23 established for the state fair and the state fairgrounds.

24 Sec. 5. It is the intent of the Legislature that the
25 Nebraska State Fair Board establish the State Fair Foundation as a
26 nonprofit foundation operated exclusively as a corporation for
27 charitable purposes as contemplated by sections 170(c)(2) and
28 501(c)(3) of the Internal Revenue Code as defined in section

1 49-801.01, and organized and operated for the benefit of and to
2 carry out the purposes of the board. The foundation may solicit,
3 receive, hold, invest, and contribute funds and property for the
4 use and benefit of the board in a manner consistent with the public
5 good and primarily for capital expenditure and other needs not
6 funded by other means.

7 Sec. 6. The State of Nebraska may disburse funds for the
8 maintenance, improvement, or renovation of the buildings, grounds,
9 and facilities of the Nebraska State Fairgrounds from the Building
10 Renewal Allocation Fund, from funds available for complying with
11 the federal Americans with Disabilities Act of 1990, as such act
12 existed on January 1, 2002, or from other funds appropriated by the
13 Legislature for such purpose subject to the same requirements and
14 system of priorities that apply to state property. The property
15 management agreement under which the Nebraska State Fair Board
16 occupies, uses, and manages the Nebraska State Fairgrounds shall
17 provide for the board to provide all necessary information and
18 reports and to comply with requirements governing the disbursement
19 of state funds from the Building Renewal Allocation Fund and other
20 state appropriations. Such disbursement of state funds for the
21 maintenance, improvement, or renovation of the state fairgrounds
22 shall be subject to the board annually submitting to the state
23 building division of the Department of Administrative Services a
24 one-year and three-year capital facilities budget of planned or
25 proposed expenditures sufficient for the maintenance in sound
26 condition of the buildings, grounds, and facilities of the state
27 fairgrounds and identification of revenue sources to fund such
28 expenditures.

1 Sec. 7. Section 2-219, Revised Statutes Supplement,
2 2000, is amended to read:

3 2-219. No person shall be permitted to exhibit or
4 conduct indecent shows or dances or to engage in any gambling or
5 other games of chance or horseracing, either inside the enclosure
6 where any state, fair or district, or county agricultural society
7 fair is being held or within forty rods thereof, during the time of
8 holding such fairs. Nothing in this section shall be construed to
9 prohibit wagering on the results of horseraces by the parimutuel or
10 certificate method when conducted by licensees within the racetrack
11 enclosure at licensed horserace meetings, to prohibit the operation
12 of bingo games as provided in the Nebraska Bingo Act, to prohibit
13 the conduct of lotteries pursuant to the Nebraska County and City
14 Lottery Act, to prohibit the conduct of lotteries or raffles
15 pursuant to the Nebraska Lottery and Raffle Act or the Nebraska
16 Small Lottery and Raffle Act, or to prohibit the sale of pickle
17 cards pursuant to the Nebraska Pickle Card Lottery Act. Nothing in
18 this section shall be construed to prohibit the sale of
19 intoxicating liquors, wine, or beer by a person properly licensed
20 pursuant to Chapter 53 on premises under the control of the
21 Nebraska State Fair Board of Agriculture or any county agricultural
22 society. Any person who violates this section shall be guilty of a
23 Class V misdemeanor. The trial of speed of horses under direction
24 of the society shall not be included in the term horseracing. Upon
25 the filing of proof with the State Treasurer of a violation of this
26 section inside the enclosure of such fair, the amount of money
27 appropriated shall be withheld from any money appropriated for the
28 ensuing year.

1 Sec. 8. Section 2-220, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-220. The president of any ~~such~~ district or county
4 agricultural society, a marshal, or any police officer appointed by
5 the ~~board~~ Nebraska State Fair Board shall be empowered to arrest,
6 or cause to be arrested, any person or persons engaged in violating
7 ~~any of the provisions contained in~~ section 2-219. He or she may
8 seize, or cause to be seized, all intoxicating liquors, wine, or
9 beer, of any kind, with the vessels containing the same, and all
10 tools or other implements used in any gambling or other game of
11 chance, and may remove, or cause to be removed, all shows, swings,
12 booths, tents, carriages, wagons, vessels, boats, or any other
13 nuisance that may obstruct, or cause to be obstructed, by
14 collecting persons around or otherwise, any thoroughfare leading to
15 the enclosure in which such ~~agricultural~~ fair is being held. Any
16 person owning or occupying any of ~~the~~ such causes of obstruction,
17 ~~herein specified,~~ who may refuse or fail to remove such obstruction
18 or nuisance when ordered to do so by the president ~~of such society~~
19 or officer, shall be guilty of a Class V misdemeanor.

20 Sec. 9. Section 2-220.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 2-220.01. All carnival companies, booking agencies, or
23 shows that enter into any contract with the Nebraska State Fair
24 Board, of Agriculture, any county agricultural society, or any
25 county fair board may be required, within thirty days after the
26 execution of the contract, to either deposit cash or a certified
27 check payable to the State of Nebraska, the county agricultural
28 society, or the county fair board, as appropriate, or execute and

1 file with the ~~secretary~~ chairperson of the Nebraska State Fair
2 Board, of Agriculture, the county agricultural society, or the
3 county fair board, as appropriate, a good and sufficient bond with
4 a corporate surety. The Nebraska State Fair Board, of Agriculture,
5 the county agricultural society, or the county fair board, as
6 appropriate, shall determine the amount of the deposit or bond
7 required. Such security shall run to the State of Nebraska, the
8 county agricultural society, or the county fair board, as
9 appropriate, on the condition that the carnival company, booking
10 agency, or show will faithfully perform any contract entered into
11 by it during a period of one year from the date of execution of the
12 contract and shall, at the time of the filing of the cash,
13 certified check, or bond, file a sworn statement giving the names
14 and addresses of the owners of the carnival company, booking
15 agency, or show. Further cash, certified check, or bond shall not
16 be required on signing any subsequent contract during the year such
17 bond is in force.

18 Sec. 10. Section 2-220.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 2-220.02. The Nebraska State Fair Board, of Agriculture,
21 county agricultural society, or county fair board may bring suit
22 upon the deposit or bond required by section 2-220.01 in the county
23 where such contract was to have been performed to recover any
24 damages sustained by reason of breach of contract or failure to
25 carry out the terms thereof.

26 Sec. 11. Section 2-220.04, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 2-220.04. If cash or certified check is deposited with

1 ~~the secretary of the Nebraska State Fair Board, of Agriculture,~~ a
2 county agricultural society, or a county fair board under section
3 2-220.01, such deposit shall be returned to the person or company
4 making the deposit within sixty days after the completion of the
5 last performance of the contract unless a written, signed, and
6 verified complaint has been filed within such time.

7 Sec. 12. Section 2-1204, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 2-1204. The Nebraska State Fair Board, ~~of Agriculture,~~ a
10 county fair board, a county agricultural society for the
11 improvement of agriculture organized under the County Agricultural
12 Society Act, or a corporation or association of persons organized
13 and carried on for civic purposes or which conducts a livestock
14 exposition for the promotion of the livestock or horse-breeding
15 industries of the state and which does not permit its members to
16 derive personal profit from its activities by way of dividends or
17 otherwise may apply to the State Racing Commission for a license to
18 conduct horseracing at a designated place within the state. Such
19 application shall be filed with the secretary of the commission at
20 least sixty days before the first day of the horserace meeting
21 which such corporation or association proposes to hold or conduct,
22 shall specify the day or days when and the exact location where it
23 is proposed to conduct such racing, and shall be in such form and
24 contain such information as the commission shall prescribe.

25 Sec. 13. Section 2-1208.01, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 2-1208.01. There is hereby imposed a tax on the gross
28 sum wagered by the parimutuel method at each race enclosure during

1 a calendar year as follows:

2 (1) For meets conducted on the Nebraska State
3 Fairgrounds, property owned by the state on which the Nebraska
4 State Fair is also conducted, no tax shall be imposed, but the
5 licensee shall apply two percent of any amount in excess of ten
6 million dollars for the purpose of maintenance of buildings,
7 streets, utilities, and other existing improvements on the Nebraska
8 State Fairgrounds; and

9 (2) For all other meets:

10 (a) The first ten million dollars shall not be taxed;

11 (b) Any amount over ten million dollars but less than or
12 equal to seventy-three million dollars shall be taxed at the rate
13 of two and one-half percent;

14 (c) Any amount in excess of seventy-three million dollars
15 shall be taxed at the rate of four percent; and

16 (d) An amount equal to two percent of the first taxable
17 seventy million dollars at each race meeting shall be retained by
18 the licensee for capital improvements and for maintenance of the
19 premises within the licensed racetrack enclosure and shall be a
20 credit against the tax levied in this section.

21 A return as required by the Tax Commissioner shall be
22 filed for a racetrack enclosure for each month during which wagers
23 are accepted at the enclosure. The return shall be filed with and
24 the net tax due pursuant to this section shall be paid to the
25 Department of Revenue on the tenth day of the following month.

26 Sec. 14. Section 51-601, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 51-601. There is hereby created an Antique Farm

1 Machinery and Equipment Commission which shall consist of nine
2 members, eight to be appointed by the Governor as follows:

3 (1) One member shall be an agricultural engineer from an
4 educational institution in this state;

5 (2) One member shall be actively involved in economic
6 development or tourism;

7 (3) One member shall be knowledgeable in Nebraska history
8 and historic preservation;

9 (4) One member shall be between the ages of eighteen and
10 thirty years, be actively involved in agriculture, and have an
11 interest in the future of agriculture; and

12 (5) Four members shall be persons who have an interest in
13 preserving antique farm machinery and equipment. The appointments
14 shall be made to provide to the extent possible equal
15 representation to all congressional districts in the state.

16 The chairperson ~~Manager~~ of the Nebraska State Fair Board
17 ~~of Agriculture~~ shall serve as the ninth member of the commission.

18 In making the initial appointments to the commission, the
19 Governor shall appoint two members for terms of three years, two
20 members for terms of four years, and two members for terms of five
21 years. The members appointed to fill the two positions created by
22 the changes made to this section by Laws 1993, LB 57, shall serve
23 for terms of five years. As each term expires, the Governor shall
24 appoint or reappoint a member of the commission for a term of five
25 years to succeed the member whose term has expired. The Governor
26 shall fill any vacancy by appointment for the unexpired term from
27 the same category from which the vacancy occurred.

28 All members shall serve without compensation for any

1 services rendered to the commission but shall be reimbursed for
2 actual and necessary expenses incurred in the discharge of duties
3 of the commission as provided in sections 81-1174 to 81-1177.

4 Sec. 15. Section 51-603, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 51-603. The members of the Antique Farm Machinery and
7 Equipment Commission shall, immediately after their appointment,
8 meet and organize. The chairperson of the Nebraska State Fair
9 Board Manager of the State Board of Agriculture shall serve as the
10 chairperson of the commission. The commission shall elect one of
11 its members secretary, one as treasurer, and any other officers as
12 may be necessary. The treasurer shall give bond in such amount as
13 the commission may fix.

14 Sec. 16. Section 51-604, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 51-604. The antique farm machinery and equipment museum
17 shall initially be located at the state fairgrounds in Lincoln,
18 Lancaster County, Nebraska. The Antique Farm Machinery and
19 Equipment Commission may recommend a site to the ~~executive board of~~
20 ~~the State Board of Agriculture~~ Nebraska State Fair Board, but the
21 final determination of the location of such site ~~within the state~~
22 ~~fairgrounds~~ shall be by a majority vote of the ~~executive board of~~
23 ~~the State Board of Agriculture~~ board. The commission may establish
24 additional sites throughout the state for temporary or permanent
25 exhibition of antique farm machinery and equipment based upon
26 available funds, the expression of interest and support in the
27 area, and such other factors which indicate the feasibility of an
28 additional site for such exhibition.

1 Sec. 17. Section 53-124.14, Revised Statutes Supplement,
2 2001, is amended to read:

3 53-124.14. (1) The commission may license the sale of
4 alcoholic liquor at retail in the original package to applicants
5 who reside in any county in which there is no incorporated city or
6 village or in which the county seat is not located in an
7 incorporated city or village if the licensed premises are situated
8 in an unincorporated village having a population of twenty-five
9 inhabitants or more.

10 (2) The commission may license the sale of beer at retail
11 in any county outside the corporate limits of any city or village
12 therein and license the sale of alcoholic liquor at retail for
13 consumption on the premises and off the premises, sales in the
14 original package only.

15 (3) The commission may license the sale of alcoholic
16 liquor for consumption on the premises as provided in subdivision
17 (5) (c) of section 53-124 on lands controlled by airport authorities
18 when such land is located on and under county jurisdiction or by
19 the Nebraska State Fair Board. ~~of Agriculture.~~

20 (4) The commission may license the sale at retail of
21 alcoholic liquor, including beer, in the original package only,
22 except as provided in subsection (2) of section 53-123.04, to
23 applicants who are located outside the corporate limits but within
24 the extraterritorial zoning jurisdiction of cities or incorporated
25 villages.

26 (5) This section shall not be construed to limit the
27 commission in the issuance of licenses described in subdivision
28 (5) (h) or (9) of section 53-124.

1 Sec. 18. Section 77-2704.16, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2704.16. Sales and use taxes shall not be imposed on
4 the gross receipts from the sale, lease, or rental of and the
5 storage, use, or other consumption in this state of purchases made
6 by the Nebraska State Fair Board. ~~of Agriculture.~~

7 Sec. 19. Section 81-1108.30, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1108.30. The Board of Regents of the University of
10 Nebraska is authorized to furnish and to enter into agreements with
11 the ~~Nebraska State Board of Agriculture~~ Nebraska State Fair Board
12 to furnish a supply of electric current to the Nebraska State
13 Fairgrounds and buildings, which shall be furnished by the heating
14 plant located upon the city campus of the University of Nebraska at
15 Lincoln, except ~~PROVIDED,~~ that such electric service ~~to the~~
16 ~~Nebraska State Board of Agriculture for use at the State~~
17 ~~Fairgrounds~~ shall be furnished only if the same may be generated
18 and furnished without impairment or reduction of the power
19 necessary to proper and efficient operation of the University of
20 Nebraska and the State Capitol, including the executive mansion.

21 Sec. 20. Section 83-136, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 83-136. Wherever any paving district is created adjacent
24 to any state institution or the Nebraska State Fairgrounds, the
25 chief executive officer in charge of the state institution or the
26 chairperson of the Nebraska State Fair Board for the fairgrounds is
27 authorized to sign petitions, in the name of the state, to create
28 paving districts.

1 Sec. 21. This act becomes operative on January 1, 2003.

2 Sec. 22. Original sections 2-101, 2-220 to 2-220.02,
3 2-220.04, 2-1204, 2-1208.01, 51-601, 51-603, 51-604, 77-2704.16,
4 81-1108.30, and 83-136, Reissue Revised Statutes of Nebraska,
5 section 2-219, Revised Statutes Supplement, 2000, and section
6 53-124.14, Revised Statutes Supplement, 2001, are repealed.

7 Sec. 23. The following sections are outright repealed:
8 Sections 2-102, 2-115, 2-116, 2-118, and 2-125 to 2-128, Reissue
9 Revised Statutes of Nebraska, and section 2-117, Revised Statutes
10 Supplement, 2001.